

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MASSACHUSETTS

JOSEPH PETER SCHMITT,

v.

JEFFREY SMITH, et al.

Defendants.

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C.A. No. 2004-10451-RWZ

OPPOSITION TO PLAINTIFF'S MOTION TO COMPEL BY DEFENDANT  
MASSACHUSETTS DEPARTMENT OF CORRECTION

Now comes the above-named defendant, by and through the undersigned counsel, and opposes plaintiff's motion to compel to the extent such an order would require the defendant Department of Correction to release the home address of defendant, Michael T. Maloney.

As reason therefore, the Defendant Department of Correction states that although Michael T. Maloney was the Commissioner of the Department of Correction at times relevant to the complaint he is no longer employed by the Massachusetts Department of Correction. Accordingly, the defendant Department of Correction is not authorized to accept service on behalf of defendant Maloney without his express request. Further, Mass. Gen. Laws c. 66, §10 provides in relevant part:

The home address and home telephone number of law enforcement, judicial, prosecutorial, department of youth services, department of social services, department of correction and any other public safety and criminal justice system personnel **shall not be public records** in the custody of the employers of such personnel or the public employee retirement administration commission or any retirement board established under chapter 32 **and shall not be disclosed**, but

such information may be disclosed to an employee organization under chapter 150E, a nonprofit organization for retired public employees under chapter 180 or to a criminal justice agency as defined in section 167 of chapter 6 (emphasis added).

Moreover, the plaintiff is free to seek service of defendant Maloney at his current place of employment.

Wherefore, the defendant Department of Correction respectfully requests that the motion to compel be denied.

Respectfully submitted,  
Defendant Department of Correction

By its attorneys:

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/s/ Philip W. Silva  
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I hereby certify that a true copy of the above document was served upon each party appearing pro se by mail on December 23, 2004.

/s/ Philip W. Silva  
Philip W. Silva, Esq.